



Senate

General Assembly

February Session, 2008

File No. 363

Senate Bill No. 332

Senate, April 1, 2008

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE MANAGERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 5-270 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2008*):

3 When used in sections 5-270 to 5-280, inclusive:

4 (a) "Employer" means the state of Connecticut, its executive and
5 judicial branches, including, without limitation, any board,
6 department, commission, institution, or agency of such branches or
7 any appropriate unit thereof and any board of trustees of a state-
8 owned or supported college or university and branches thereof, public
9 and quasi-public state corporation, or authority established by state
10 law, or any person or persons designated by the employer to act in its
11 interest in dealing with employees, but [shall] does not include the
12 State Board of Labor Relations or the State Board of Mediation and
13 Arbitration.

14 (b) "Employee" means any employee of an employer, whether or not
15 in the classified service of the employer, except elected or appointed
16 officials other than special deputy sheriffs, board and commission
17 members, disability policy specialists assigned to the Council on
18 Developmental Disabilities, [managerial employees] bureau heads and
19 confidential employees.

20 (c) "Professional employee" means: (1) Any employee engaged in
21 work (A) predominantly intellectual and varied in character as
22 opposed to routine mental, manual, mechanical or physical work; (B)
23 involving the consistent exercise of discretion and judgment in its
24 performance; (C) of such a character that the output produced or the
25 result accomplished cannot be standardized in relation to a given time
26 period; (D) requiring knowledge of an advanced type in a field of
27 science or learning customarily acquired by a prolonged course of
28 specialized intellectual instruction and study in an institution of higher
29 learning or a hospital, as distinguished from a general academic
30 education or from an apprenticeship or from training in the
31 performance of routine mental, manual or physical processes; or (2)
32 any employee who has completed the courses of specialized
33 intellectual instruction and study described in [subsection (c)(1)(D)]
34 subparagraph (D) of subdivision (1) of this subsection and is
35 performing related work under the supervision of a professional
36 person to qualify [himself] to become a professional employee as
37 defined in [subsection (c)(1)] subdivision (1) of this subsection.

38 (d) "Employee organization" means any lawful association, labor
39 organization, federation or council having as a primary purpose the
40 improvement of wages, hours and other conditions of employment
41 among state employees.

42 (e) "Confidential employee" means any public employee who would
43 have access to confidential information used in collective bargaining.

44 (f) "Supervisory employee" means any individual in a position in
45 which the principal functions are characterized by not fewer than two
46 of the following: (1) Performing such management control duties as

47 scheduling, assigning, overseeing and reviewing the work of
48 subordinate employees; (2) performing such duties as are distinct and
49 dissimilar from those performed by the employees supervised; (3)
50 exercising judgment in adjusting grievances, applying other
51 established personnel policies and procedures and in enforcing the
52 provisions of a collective bargaining agreement; and (4) establishing or
53 participating in the establishment of performance standards for
54 subordinate employees and taking corrective measures to implement
55 those standards, provided in connection with any of the foregoing the
56 exercise of such authority is not merely of a routine or clerical nature,
57 but requires the use of independent judgment. [, and such individuals
58 shall be] Such individuals are employees within the meaning of
59 subsection (b) of this section. The above criteria for supervisory
60 positions [shall] does not necessarily apply to police or fire
61 departments.

62 (g) "Managerial employee" means any individual in a position in
63 which the principal functions are characterized by not fewer than two
64 of the following, provided for any position in any unit of the system of
65 higher education, one of such two functions shall be as specified in
66 subdivision (4) of this subsection: (1) Responsibility for direction of a
67 subunit or facility of a major division of an agency or assignment to an
68 agency head's staff; (2) development, implementation and evaluation
69 of goals and objectives consistent with agency mission and policy; (3)
70 participation in the formulation of agency policy; or (4) a major role in
71 the administration of collective bargaining agreements or major
72 personnel decisions, or both, including staffing, hiring, firing,
73 evaluation, promotion and training of employees. Such individuals,
74 other than any individuals who are bureau heads, as defined in
75 subsection (h) of this section, are employees within the meaning of
76 subsection (b) of this section.

77 (h) "Bureau head" means any individual who heads a major division
78 of any employer and reports to the head or deputy head of such
79 employer, provided: (1) The number of bureau heads of any employer
80 shall not exceed the greater of (A) one, or (B) one-half of one per cent

81 of the total number of permanent full-time employees of the employer,
82 rounded to the next lowest whole number, (2) the number of bureau
83 heads in the state executive branch shall not exceed one-half of one per
84 cent of the total number of permanent full-time employees in the
85 branch, rounded to the next lowest whole number, and the number of
86 bureau heads in the state judicial branch shall not exceed one-half of
87 one per cent of the total number of permanent full-time employees in
88 the branch, rounded to the next lowest whole number, and (3) if an
89 employer has more major divisions than the number of bureau heads
90 permitted to an employer by this subsection, the major divisions shall
91 be ranked by the number of permanent full-time employees in each,
92 and any individual heading a major division with a smaller number of
93 permanent full-time employees shall be excluded from being classified
94 as a bureau head before any individual heading a major division with
95 a larger number of full-time employees.

96 Sec. 2. Subsection (b) of section 5-275 of the general statutes is
97 repealed and the following is substituted in lieu thereof (*Effective*
98 *October 1, 2008*):

99 (b) The board shall determine the appropriateness of a unit which
100 shall be the public employer unit or a subdivision [thereof] of the
101 public employer unit. In determining the appropriateness of the unit,
102 the board shall: (1) Take into consideration, but shall not limit
103 consideration to, the following: (A) Public employees must have an
104 identifiable community of interest, and (B) the effects of
105 overfragmentation; (2) not decide that any unit is appropriate if (A)
106 such unit includes both professional and nonprofessional employees,
107 unless a majority of such professional employees vote for inclusion in
108 such unit, or (B) such unit includes both Department of Correction
109 employees at or above the level of lieutenant and Department of
110 Correction employees below the level of lieutenant; (3) decide that a
111 unit is not appropriate if the unit includes both managerial and
112 nonmanagerial employees; (4) take into consideration that when the
113 state is the employer, it will be bargaining on a state-wide basis unless
114 issues involve working conditions peculiar to a given governmental

115 employment locale; [(4)] (5) permit the faculties of (A) The University
116 of Connecticut, (B) the Connecticut State University system, and (C)
117 the state regional vocational-technical schools to each comprise a
118 separate unit, which in each case shall have the right to bargain
119 collectively with their respective boards of trustees or their designated
120 representatives; and [(5)] (6) permit the community college faculty and
121 the technical college faculty as they existed prior to July 1, 1992, to
122 continue to comprise separate units, which in each case shall have the
123 right to bargain collectively with its board of trustees or its designated
124 representative. Nonfaculty professional staff of the above institutions
125 may by mutual agreement be included in such bargaining units, or
126 they may form a separate bargaining unit of their own. This section
127 shall not be deemed to prohibit multiunit bargaining.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2008</i>	5-270
Sec. 2	<i>October 1, 2008</i>	5-275(b)

LAB *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Various State Agencies	All Funds - Cost	Indeterminate	Indeterminate

Municipal Impact: None

Explanation

This bill allows state managers, excluding bureau heads, to bargain collectively. The fiscal impact to the state is indeterminate as any costs associated with this bill would depend on the outcome of collective bargaining negotiations. This bill would impact approximately 2,225 managers statewide¹.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

¹ From CORE-CT. This figure excludes managers from the judicial and legislative branches, the University of Connecticut, UConn Health Center, the Community Colleges, and the constituent units of higher education.

OLR Bill Analysis**SB 332*****AN ACT CONCERNING COLLECTIVE BARGAINING FOR STATE MANAGERS.*****SUMMARY:**

This bill allows state managers, other than bureau heads, to bargain collectively. It defines a "bureau head" as anyone who heads a major division of the state and reports to the head or deputy head of the state entity (i.e., Executive or Judicial branch agency, commission, or institution, and any board of trustees of a state-owned or -supported university). The bill establishes mechanisms to limit how many managerial employees can be reclassified as bureau heads.

Current law prohibits managers, elected and appointed officials, board and commission members, confidential employees, Legislative Branch employees, and others from bargaining collectively. The bill does not affect Legislative Branch managers.

The bill requires the State Board of Labor Relations to determine that a collective bargaining unit is inappropriate if it includes both managerial and nonmanagerial employees.

EFFECTIVE DATE: October 1, 2008

PROTECTIONS AGAINST RECLASSIFICATION

The bill allows an agency to have (1) one bureau head or (2) bureau heads numbering up to 0.5% of its permanent, full-time employees, whichever is greater. This means an agency with 200 or fewer permanent, full-time employees can have, at most, one bureau head.

It bars the Executive and Judicial branches from having a total number of bureau heads that exceeds 0.5% of each branch's

permanent, full-time employees.

Under the bill, if the number of an agency's major divisions exceeds the number of bureau heads allowed, a major division head who has a greater number of permanent, full-time employees must be designated a bureau head before one who has fewer employees.

SCOPE OF THE TERM "BUREAU HEAD"

Under the bill, "bureau head" means any individual who heads a major division of an employer and reports to the head or deputy head of such employer. Under the state employee collective bargaining law, an employer is the state, its Executive and Judicial branches, including any board, department, commission, institution, or agency of those branches or any board of trustees of a state-owned or -supported college or university, public and quasi-public state corporations, and state-established authorities. Thus, the bill does not apply to the Legislative Branch.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable

Yea 8 Nay 1 (03/13/2008)